

## **EVIDENCE OF PRIORITY DATE FOR CLAIMS FILED IN AN ADJUDICATION**

IF YOU RECEIVED NOTICE FROM THE NEVADA DIVISION OF WATER RESOURCES INFORMING YOU THAT YOU HAVE TO SUBMIT PROOF TO SUBSTANTIATE A CLAIM OF VESTED WATER RIGHT, THE INFORMATION BELOW WILL ASSIST YOU IN FINDING THE NECESSARY DOCUMENTATION.

### **WHAT IS A VESTED WATER RIGHT?**

A vested water right is acquired through beneficial use of water that began prior to the enactment of Nevada water law and was continually used until the present time. The dates of enactment of the statutes comprising Nevada water law were March 1, 1905, for streams and springs, March 22, 1913, for artesian wells, and March 25, 1939, for all other groundwater. (NRS 534.100.1)

Claims of vested water rights are filed with the Nevada Division of Water Resources. The determination of a vested water right and its prestatutory priority date become final through the adjudication process.

**ATTENTION:** Blank claim forms are available upon request at no charge (1-775-684-2800) or can be downloaded from NDWR's web page at [http://water.nv.gov/forms/forms09/app\\_poa.pdf](http://water.nv.gov/forms/forms09/app_poa.pdf)

**NOTE:** Domestic wells used for household purposes are exempt from many water right requirements under Nevada state law. Proof of Appropriation for domestic wells will not be required unless specifically requested by the Nevada Division of Water Resources.

### **WHAT IS BENEFICIAL USE?**

Beneficial use of water may be for irrigation, stock water (water for livestock), industrial, or other purposes that are beneficial for the appropriator or for the common good. Beneficial use is the basis, the measure and the limit of the right to the use of water.

### **WHAT IS A PRIORITY DATE?**

The priority date is one of the elements of the water right that you are required to state on your Proof of Appropriation. Generally, the priority date is the date the water was first put to beneficial use. A previous owner could have established beneficial use, which you continued.

The priority date is the basis upon which water is distributed in times of shortage. When there is not enough water to satisfy all existing water rights, then water is distributed first to those with the oldest priority date. This is the concept of "first in time, first in right."

### **WHAT KIND OF EVIDENCE IS REQUIRED TO SHOW PROOF OF A VESTED WATER RIGHT?**

Proof of a vested water right must be provided by the claimant with thorough and specific supporting documentation. This information will be used by the Nevada Division of Water Resources to validate the claim.

Documentation of the priority date claimed can take many forms. Generally, the documentation will be sufficient if it tends to show that water was used for the purpose claimed, in the year claimed as the priority date, and on the land claimed as the place of use.

Each claim filed in an adjudication must be supported by a map prepared by a licensed Nevada water rights surveyor. The purpose of the map is to show the specific point of diversion and place of use of the water right claimed. The map must meet specific standards set forth in Nevada state law. (NRS 533.100)

Successors to a claimant, or to a previous owner who established prestatutory beneficial use, may need to update title to document ownership of the claim. This is completed through a Report of Conveyance (ROC) available from the Nevada Division of Water Resources. (NRS 533.382)

### **SOME EXAMPLES OF DOCUMENTS WHICH MAY PROVIDE EVIDENCE OF A VESTED WATER RIGHT**

**NOTE:** Proof of ownership of land by a title or warranty deed usually does **not**, by itself, constitute proof of a priority date since the priority is based on use of water.

Here are a few examples of documents which might provide evidence of the priority date and continued beneficial use:

1. Homestead entry documents for irrigation claims. These may be of record at the county recorder's office for the county in which the land is located. These should also be of record with the National Archives.
2. Possessory Claims or Water Claims. These are on record at the county recorder's office.
3. General Land Office (GLO) records, available through the U.S. Bureau of Land Management GLO website.
4. Nevada State Land Patents, available through the Nevada State Lands database or the Nevada State Library and Archives.

5. County tax rolls prior to 1905 showing numbers of livestock or irrigated acres.
6. Income tax documents showing income from sale of crops.
7. Branding records, available in the county recorder's office.
8. Affidavits: A notarized statement of someone with personal knowledge of when beneficial use was first made, such as a neighbor or a previous owner of the property. Personal knowledge means someone who observed the use, not someone who was told of the use by someone else.
9. Records of the person or business who sold, installed, or constructed the diversion works.
10. Published historical accounts of grazing, ranching, mining, etc. within the area encompassed by the adjudication, with reference to sources of information.
11. Aerial photography.

**WHAT IF I AM UNABLE TO OBTAIN ANY OF THE SOURCES LISTED?**

**IF YOU CANNOT** furnish some proof such as the examples listed, you may submit your own testimony in the form of an affidavit (a letter signed by you and notarized), which explains the basis for the year of priority claimed. The letter should include a statement of the claimant's personal knowledge of the water use, but may also include information the claimant obtained from others.

**WHO HAS AUTHORIZATION TO ENTER LAND TO INVESTIGATE AND CARRY OUT DUTIES RELATED TO WATER BEING DIVERTED OR USED?**

Under Nevada Revised Statute 533.0247, the State Engineer or any assistant or authorized agent of the State Engineer may enter the land of any owner or proprietor where any water is being diverted or used pursuant to this chapter (NRS 533) at any reasonable hour of the day to investigate and carry out the duties of the State Engineer pursuant to this chapter (NRS 533).

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Please contact the Adjudication Section with any questions you may have at  
1-775-684-2800

Nevada Division of Water Resources  
ATTN: Adjudications  
901 South Stewart Street, Suite 2002  
Carson City, Nevada 89701

# EVIDENCE OF PRIORITY

A GUIDE TO SOURCES  
THAT MAY CONSTITUTE PROOF  
OF A VESTED WATER RIGHT



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